

**1-1-215. Residence -- rules for determining.** Every person has, in law, a residence. In determining the place of residence, the following rules are to be observed:

(1) It is the place where a person remains when not called elsewhere for labor or other special or temporary purpose and to which the person returns in seasons of repose.

(2) There may be only one residence. If a person claims a residence within Montana for any purpose, then that location is the person's residence for all purposes unless there is a specific statutory exception.

(3) A residence cannot be lost until another is gained.

(4) The residence of an unmarried minor is:

(a) the residence of the minor's parents;

(b) if one of the parents is deceased or the parents do not share the same residence, the residence of the parent having legal custody;

(c) if neither parent has legal custody, the residence of the parent with whom the minor customarily resides; or

(d) if the conditions in 20-5-502 are met, the last-known residence of the parent with whom the minor normally resided immediately prior to residing with the caretaker relative.

(5) In the case of a controversy, the district court may declare which parental residence is the residence of an unmarried minor.

(6) Except as provided in Title 20, chapter 5, part 5, the residence of an unmarried minor who has a parent living cannot be changed by either the minor's own act or that of the minor's guardian.

**(7) The residence can be changed only by the union of act and intent.**

History: En. Sec. 72, Pol. C. 1895; re-en. Sec. 32, Rev. C. 1907; re-en. Sec. 33, R.C.M. 1921; Cal. Pol. C. Sec. 52; re-en. Sec. 33, R.C.M. 1935; amd. Sec. 4, Ch. 164, L. 1975; R.C.M. 1947, 83-303; amd. Sec. 1, Ch. 367, L. 1997; amd. Sec. 4, Ch. 442, L. 2007.

**Substantial Evidence of Residency:** When respondents left their ranch within the county for the purpose of earning an income and educating their children, returned to the property each summer, intended to maintain the ranch as their residence, and paid county property taxes, there was substantial evidence from which the District Court could conclude that respondents were residents of the county and that therefore their children were "eligible transportees" within the meaning of 20-10-101. *School District v. Simonsen*, 210 M 100, 683 P2d 471, 41 St. Rep. 944 (1984).

**Resident Freeholder:** A freeholder becomes a resident under this section upon union of act and intent. If the **intention** to establish a permanent residence is ascertained, the recency of the establishment is immaterial. *Kunesh v. Great Falls*, 132 M 285, 317 P2d 297 (1957).

**Occupant of Rest Home:** Where the decedent had been a lifelong resident of one county but went to an adjoining county to a rest home because no similar care could be given him in his home county and while there he bought and paid for funeral services and a cemetery lot in his home county and voted in an election in his home county but died while at the rest home, it was obvious that he had no **intention** of changing his residence and his presence in the adjoining county was for a special purpose as intended by this section. *In re Ingersol's Estate*, 128 M 230, 272 P2d 1003 (1954).